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TECHNOLOGY CENTER 3600

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In re application of

Thomas D. Petite et al.

Application No. 09/853,216

Filed: May 11, 2001

For: SYSTEM AND METHOD FOR
REMOTELY PROCESSING
RESERVATIONS

: DECISION ON REQUEST
: FOR WITHDRAWAL OF
: ATTORNEY

This is a decision on the request filed on October 05, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. For approval of such a request the following conditions must be met:

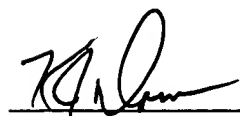
- A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
- B) There must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a);
- C) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided;
- D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

09/454,906

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks conditions A) and B) above.

As to condition A) the request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition (A) above. The attorneys listed as being withdrawn do not match those appointed in Customer No. 24504. Therefore, some attorneys originally appointed would still be of record if the request were approved. It does not appear that that is the intent of the request. If only certain attorneys are withdrawing, then it must be so stated. Since the original attorneys were not given power by a customer number, and attorneys associated with a firm change over time, it is suggested that any renewed request simply state that the request is being made on behalf of all attorneys of record.

As to condition B) while a reason may be provided by referencing a **specific** portion of 37 CFR 10.40, simply reciting per the request of the current assignee, is insufficient. The fact that the assignee has taken over the prosecution is not acceptable. There is nothing in the file record that indicates the existence of an assignee. Absent a 3.73(b) statement, the "client" referred to in 37 CFR 10.40 is seen as being those individuals who conferred power upon the attorneys, in this case the inventors. A more specific reason or referencing a specific portion of 37 CFR 10.40(c), is required for approval



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KJD/slb:10/13/04